

INTERGOVERNMENTAL AGREEMENT BETWEEN THE
STATE OF ARIZONA
AND
PIMA COUNTY

PROJECT NO. IR-10-4(96)
CASA GRANDE - TUCSON HWY.
Orange Grove Rd. to Tucson

FUND CODE: 82512

RECEIVED CLERK
BOARD OF SUPERVISORS
PIMA CO. 11-10-97
JUN 26 3 25 PM '97

87-18

01-04-A-108191-0187

This project must appear on all
invoices, correspondence, and
pertaining to this
Project.

THIS AGREEMENT, entered into this 15th day of April, 1987, pursuant to Arizona Revised Statutes, Section 11-951 through 11-954, as amended, by and between the STATE OF ARIZONA, acting by and through the ARIZONA DEPARTMENT OF TRANSPORTATION, hereinafter called "STATE" and PIMA COUNTY, a body politic and corporate, hereinafter called "LOCAL AGENCY".

WHEREAS, STATE is empowered by Arizona Revised Statutes, Section 28-108 to enter into this Agreement, and

WHEREAS, LOCAL AGENCY is empowered by Arizona Revised Statutes, Section 45-2303, replaced by 48-3603, 48-3620 = County Flood Control District to enter into this Agreement, and

WHEREAS, Congress has authorized appropriations for, but not limited to, the construction of streets; primary, feeder and farm to market roads; the replacement of bridges; the elimination of roadside obstacles; the application of pavement markings, and

WHEREAS, a project within the boundary of LOCAL AGENCY has been (1) selected, (2) the field survey of the project has been completed, and (3) the plans, estimates and specifications have been prepared by LOCAL AGENCY; and

WHEREAS, it has been determined that it is in the public interest for the project embraced in this Agreement to be accomplished by LOCAL AGENCY, either with its own forces, or by contract; and

WHEREAS, LOCAL AGENCY, in order to obtain Federal funds for the construction of the project hereinafter mentioned, is willing to match Federal funds in the ratio required or as finally fixed and determined by the Federal Highway Administration, and

WHEREAS, the only interest of the STATE in the project is in the acquisition of Federal funds for LOCAL AGENCY'S use and benefit by reason of Federal Law and regulations under which funds for the project are authorized to be expended, and

WHEREAS, the project embraced in this Agreement and the estimated cost is as follows:

Total Estimated Cost: \$7,157,880.00

Location of Construction	Federal Funds @ 94.27%	State Funds @ 5.73%	County Funds
Inside ADOT R/W	\$613,734.00	\$37,304.00	---
Outside ADOT R/W	420,851.00	25,500.00	\$6,060,411.00
TOTAL	\$1,034,585.00	\$62,884.00	\$6,060,411.00

AGREEMENT:

ARTICLE I

IN CONSIDERATION of the covenants of LOCAL AGENCY hereinafter contained and the faithful performance thereof, STATE agrees:

1. To submit a program containing the aforementioned project to the Federal Highway Administration with the recommendation that it be approved for construction, and that if such project is approved for construction by the Federal Highway Administration and the funds are available for the construction of said project, STATE, with the aid and consent of the Federal Highway Administration will authorize the LOCAL AGENCY to proceed with the work and will enter into a Project Agreement with the Federal Government covering the work embraced in this Agreement and will request the maximum Federal funds available.

2. To inspect the project and audit the books and records of LOCAL AGENCY, as STATE deems necessary so that STATE may certify the satisfactory completion of project and the proper expenditure of funds to the Federal Highway Administration, as required by Federal statutes, rules and regulations.

3. Upon the satisfactory expenditure of project monies and completion of the project in accordance with the Standard Specifications for Road and Bridge Construction of the Highways Division, Arizona Department of Transportation, and the applicable State and Federal statutes, rules and regulations, STATE will certify the project to the Federal Highway Administration. It shall be the sole decision of STATE as to whether STATE may certify the project under the relevant laws, rules, regulations and specifications. The LOCAL AGENCY may concur in the certification if it desires, but its failure to do so shall not prohibit the STATE from certifying.

ARTICLE II

IN CONSIDERATION of the covenants of STATE hereinbefore contained and the faithful performance thereof, LOCAL AGENCY agrees:

1. To acquire, without cost to the STATE, the necessary right-of-way and hereby certifies that all necessary rights-of-way have been acquired.

2. To remove from the proposed right-of-way all obstructions or unauthorized encroachments of whatever nature, either above or below the surface of the roadway, and hereby certifies that all obstructions and encroachments have been removed therefrom.

3. To perform the work with its own forces, or by contract, in accordance with the approved plans and specifications and to notify the STATE of the beginning and completion of the work.

4. Not to permit or allow any encroachments, except those authorized by permit, upon, or private use of, the right-of-way, and in the event of any unauthorized encroachment or improper use, to take all necessary steps to remove or prevent any such encroachment or use; failing in which STATE shall have the right to proceed with the removal or prevention thereof, the cost of such removal or prevention to be borne by LOCAL AGENCY.

5. In the event of contract bidding, to advertise, receive and open bids, award the contract, and enter into a contract with the successful bidder for the construction of the project, all with the supervision and concurrence of the STATE in accordance with State and Federal laws and regulations.

6. To have all change orders approved by the STATE.

7. To complete and pay for the project in accordance with approved plans and the requirements of the relevant State and Federal statutes, rules, or regulations. In the event LOCAL AGENCY fails to comply with the plans and specifications or any relevant State or Federal statutes, rules, regulations, or specifications, it shall hold the STATE harmless from any claims or costs incurred by the STATE as a result of LOCAL AGENCY'S failure to comply.

8. To let STATE employees perform any inspections of the project the STATE employees deem necessary, or to let STATE employees audit any books or records of LOCAL AGENCY the STATE employees deem necessary, in order for the STATE to satisfy itself that the monies on the project have been spent and the project completed in accordance with the plans, statutes, rules, regulations, and specifications of the STATE and Federal governments.

9. Upon completion of construction, to provide for, at its own cost and as an annual item in its budget, proper maintenance; such maintenance to include, but not be limited to, traffic signals, signs, islands, curbs and markings necessary for the purpose of regulating, warning, and guiding traffic.

10. To mark and sign school crossings and railway-highway grade crossings in accordance with the requirements of the current edition of the Manual on Uniform Traffic Control Devices for Streets and Highways.

11. By such regulation as it may by ordinance provide, to regulate parking and not permit vehicles to be left on the street in any manner other than at the curb and parallel thereto and to restrict parking so as to prevent conflicts with moving traffic at intersections and at such other locations as necessary.

ARTICLE III

IN CONSIDERATION of the premises, it is mutually agreed:

1. That the Project Agreement to be entered into between the Federal Government and STATE shall be incorporated in and made a part of this Agreement by reference and shall have the same force and effect as though fully written herein; and

2. That STATE assumes no financial obligation or liability hereunder, and that LOCAL AGENCY will reimburse STATE for all costs STATE expends in fulfilling its obligations under this Agreement, as said costs are defined in this Agreement. The LOCAL AGENCY may examine STATE's costs. It is understood and agreed that STATE's participation herein is confined solely to requesting Federal aid; and if said aid is obtained, in doing the inspections necessary to permit the STATE to certify the project; and, if the project is completed in accordance with applicable State and Federal laws, rules, regulations, and specifications, to so certify to the Federal Government.

3. If, at any time, the Federal Government claims money is due it from the STATE arising out of this Agreement or project, the LOCAL AGENCY agrees to (1) negotiate this issue with the Federal Government, (2) hold the State harmless from all costs it may incur resulting from this issue, and (3) hold the STATE harmless from all monies, which may eventually be paid by the STATE to the Federal Government either directly, by off-set, deductions or credits.

4. That this Agreement is subject to cancellation by the Governor pursuant to Arizona Revised Statutes 38-511; the provisions of which are incorporated herein by reference.

5. That LOCAL AGENCY assumes full responsibility for the design, plans, specifications, engineering, construction, and maintenance of the project.

6. That the cost of the work covered by this Agreement is to be borne by the Federal Government and LOCAL AGENCY, each in the proportion fixed and determined by the Federal Highway Administration.

7. That the term "cost", when used in this Agreement, shall mean all monies paid or spent by the STATE and shall include, but not be exclusive of, all in-house expenses which STATE incurs in fulfilling its obligations under this Agreement, such as appropriate allocation of salaries, materials, equipment, and general overhead which the STATE uses or expends in inspections, audits, approval of change orders, certification, or the submission of information to the Federal Highway Administration. "Cost" shall also include, in the event of a lawsuit being filed, the attorneys' fees and expenses of litigation incurred by the STATE, whether in-house or otherwise and any judgement rendered against the State. The LOCAL AGENCY shall have the right to select an attorney to represent the STATE so long as that choice is also satisfactory to STATE. "Cost" shall also include any monies claimed by the Federal Government from the STATE resulting from the STATE's participation in this project.

8. That if the STATE is to disburse any federal funds under this Agreement, the STATE shall be obligated to disburse those funds only after the Federal Highway Administration has approved such disbursement.

9. That arbitration will be used pursuant to A.R.S 12-1518 if the entire relief in controversy is money in an amount less than One Hundred Thousand Dollars (\$100,000.00).

10. That any damages or costs arising from the carrying out, in any respect, of this Agreement or any modification thereof, shall be solely the liability of LOCAL AGENCY, LOCAL AGENCY hereby agrees to save, hold harmless and defend and indemnify from loss STATE, any of its departments, agencies, officers or employees from any and all costs and/or damages to any person or property whatsoever, except for the active negligence of STATE personnel who may be associated with the project while actually engaged in the performance of their duties, which are caused by any activity, condition, or event arising out of the performance or nonperformance of any provision of this Agreement by STATE or LOCAL AGENCY, or any of their departments, agencies, officers and employees, or any of LOCAL AGENCY's independent contractor's, or any of said contractor's agents, officers or employees.

11. That this Agreement, except the provisions for maintenance and indemnification which shall be perpetual, shall terminate upon completion of the project in accordance with the terms of this Agreement, or may be terminated at any time prior to the awarding of the construction contract, or if no contract is awarded, before construction is commenced, by either party upon thirty (30) days' written notice of that intent.

12. That this Agreement shall be filed with the Office of the Secretary of State and shall become effective on the date above written or when filed with the Secretary of State, whichever is later.

13. Attached hereto is an authenticated copy of the resolution of the STATE and an authenticated copy of the resolution of the governing body of LOCAL AGENCY authorizing the appropriate entity to enter into this Agreement; also attached is a copy of the written determination of the legal counsel of LOCAL AGENCY that this Agreement is in proper form and within the powers and authority granted to LOCAL AGENCY under the laws of this STATE.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first written above.

STATE OF ARIZONA

By: STATE ENGINEER

By: *A. J. Sutter*
Chief Deputy State Engineer

ATTEST:

STATE OF ARIZONA)

COUNTY OF MARICOPA)

) ss.

On this the 15th day of April, 1987, before me, *Janette Sutter*, the undersigned Notary Public, personally appeared *A. J. Sutter*, Chief Deputy State Engineer, Arizona Department of Transportation, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same for the purposes therein contained.

IN WITNESS WHEREOF I hereunto set my hand and official seal.

Janette Sutter
NOTARY PUBLIC

My Commission expires:

My Commission Expires Nov. 10, 1988

By:

Governing Body

By:

David Yetman, VICE

CHAIRMAN BOARD OF SUPERVISORS
Title:

FEB 10 1987

ATTEST:

Jane S. Williams
(CLERK. BOARD OF SUPERVISORS)

STATE OF ARIZONA)

COUNTY OF)

) ss.

On this the 10th day of FEBRUARY, 1987, before me, *JANE S. WILLIAMS*, the undersigned Notary Public, personally appeared *DAVID YETMAN*, of the VICE CHAIR Bd of Suprs., known to me (or satisfactorily proven) to be the person described in the foregoing instrument, and acknowledged that he executed the same in the capacity therein stated and for the purposes therein contained.

IN WITNESS WHEREOF I hereunto set my hand and official seal.

Jane S. Williams
NOTARY PUBLIC

My Commission expires:

My Commission Expires January 6, 1989

PIMA COUNTY DEPARTMENT OF TRANSPORTATION
Craig L. Howell
DIRECTOR (ACTING)

RESOLUTION AND ORDER NO. 1987-15

RESOLUTION OF THE PIMA COUNTY BOARD OF SUPERVISORS APPROVING AND AUTHORIZING THE EXECUTION OF THE AGREEMENT BETWEEN PIMA COUNTY AND THE STATE OF ARIZONA, WHICH AGREEMENT PROVIDES FOR THE CONSTRUCTION OF STREETS, REPLACEMENT OF BRIDGES, THE ELIMINATION OF ROADSIDE OBSTACLES AND THE APPLICATION OF PAVEMENT MARKINGS.

WHEREAS, it is deemed to be in the public interest to establish an Agreement with the State of Arizona for the construction of streets, replacement of bridges, the elimination of roadside obstacles and the application of pavement markings, pursuant to the provisions of Title 23, United States Code, Section 204, and Title 23, Code of Federal Regulation (CFR), Part 660, Subpart A.

NOW, THEREFORE, UPON MOTION DULY MADE, SECONDED, AND CARRIED, BE IT RESOLVED:

THAT Pima County enter into an Agreement with the State of Arizona to set forth the general terms and conditions for the construction of streets, replacement of bridges, the elimination of pavement markings, in accordance with the attached Agreement.

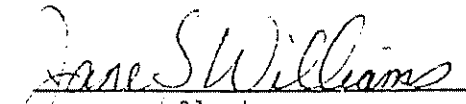
THAT the Chairman of the Board of Supervisors is hereby instructed and authorized to sign the said Agreement for the Pima County Board of Supervisors.

PASSED, ADOPTED AND APPROVED this _____ day of FEB 10 1987, 1987.

PIMA COUNTY BOARD OF SUPERVISORS


Chairman

ATTEST:


Clerk

APPROVED AS TO FORM:


Deputy County Attorney

DETERMINATION

I have reviewed the proposed Agreement between the State of Arizona and Pima County, Arizona, which agreement provides for the construction of street, replacement of bridges, the elimination of roadside obstacles, and the application of pavement markings, IR 10-4(96).

I have determined that the said proposed Agreement is in the proper form and is within the powers and authority granted to Pima County and its agencies under the laws of the State of Arizona.

Dated this 31st day of December, 1986

Stephen D. Neely
Pima County Attorney

By:

John R. Neubauer
Deputy County Attorney



Attorney General

1275 WEST WASHINGTON

Phoenix, Arizona 85007

Robert K. Corbin

INTERGOVERNMENTAL AGREEMENT

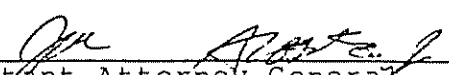
DETERMINATION

A. G. Contract No. KR 87-2462, is an agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter into said agreement.

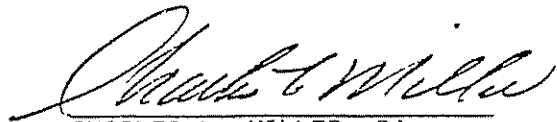
DATED this 30 day of March, 1987.

ROBERT K. CORBIN
Attorney General


Assistant Attorney General
Transportation Division

R E S O L U T I O N

Be it resolved on this, the 4th day of March 1987 , that I,
CHARLES L. MILLER, as the Director, Arizona Department of Transportation, have determined that pursuant to A.R.S. 28-108, it is in the best interests of the State of Arizona that the Department of Transportation, acting by and through its Highways Division, enter into an intergovernmental agreement with the County of Pima for Project IR-10-4(96), ORANGE GROVE RD TI.



CHARLES L. MILLER, Director
Arizona Department of Transportation